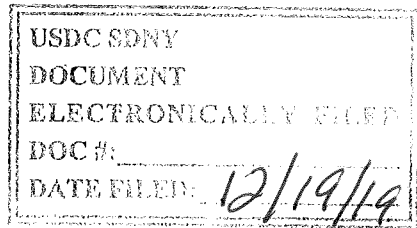


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
EDWARD BERGHAUER,
Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,
Defendant.
-----X

ORDER

17 CV 6421 (VB)

On August 23, 2017, plaintiff brought this action challenging the Commissioner of Social Security's denial of plaintiff's application for disability benefits under 42 U.S.C. § 401 et seq. (Doc. #1). On December 27, 2017, the Court entered the parties' stipulation reversing and remanding the case to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings. (Doc. #15). The Court entered judgment accordingly the same day. (Doc. #16). Plaintiff then moved for an award of attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 (Doc. #17), and the parties subsequently stipulated that defendant would pay plaintiff's counsel \$6,700 in full satisfaction of plaintiff's claims under the EAJA (Doc. #22).

On December 6, 2019, following a favorable decision before the Commissioner, plaintiff moved for an award of \$22,343.76 in attorney's fees pursuant to 42 U.S.C. § 406(b). (Doc. #24). Defendant filed a letter stating it did not object to plaintiff's motion, provided plaintiff's counsel is directed to return to plaintiff \$6,700, the amount previously awarded for attorney's fees under the EAJA. (Doc. #27).

Accordingly, it is HEREBY ORDERED:

1. Plaintiff's motion for attorney's fees pursuant to 42 U.S.C. § 406(b) is GRANTED.

2. Plaintiff's counsel is entitled to recover \$22,343.76 in attorney's fees under 42 U.S.C. § 406(b).

3. Plaintiff's counsel shall promptly return directly to plaintiff the \$6,700 received under the EAJA.

The Clerk is instructed to terminate the motion. (Doc. #24).

Dated: December 19, 2019
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge